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10/791,149	03/01/2004	Richard Postrel	370-029	3159

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EXAMINER
BAIRD, EDWARD J

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 March, 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claims 1- 20 are pending in this application. Claims 1-20 are rejected under 35 U.S.C.

102 (e), and 103.

Specification

1.   Applicant cooperation is requested in correcting any error of which applicant may

become aware in the specification.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

3.   Claims 1 and 2 are rejected under 35 U.S.C. 102 (e) as being anticipated by **Deaton** et

al (US Patent No. 6,334,108).

4.   Regarding **claim 1, Deaton** discloses system and method to promote customers utilizing

an identification code and transaction data for a customer at the point-of-sale [Abstract].

Deaton teaches:

a.   user executing a purchase transaction with a merchant by presenting a credit

card for payment of the transaction;

Deaton discloses methods and systems to analyze transactions using check, credit

card, and debit card verification and marketing systems, and more particularly, to a method and

system for processing and developing a customer database of customer information [column 1

line 65 – column 2 line 7].

     b.   the merchant requesting an acquiring bank to obtain approval of said purchase

transaction from an issuing bank;

Deaton further discloses using the CVC controller accessing the customer's database to

identify a customer by means of his credit card [column 80 lines 36- 49]. The clerk at the point-

of-sale would enter in the transaction so that the CVC controller may provide credit

authorization. Examiner interprets the point-of-sale to be equivalent to the Applicant's

merchant. Examiner interprets the customer's credit card as being issued from the Applicant's

issuing bank.

     c.   and the merchant instructing **a central reward server** to add reward points to a

merchant reward point account associated with the merchant and the user.

Examiner interprets the CVC controller, as discussed above, to be equivalent to the

Applicant's **central reward server**. Deaton discloses a provision for automatic targeting of

individual customers based upon their shopping history. Coupons and other incentives may be

generated at the point-of-sale or mailed later. Types of incentive coupons can be varied based

on that customer's prior history [column 7 lines 40-60]. Deaton further discloses using

information about a specific customer in a targeted marketing group to allow the printing of

desired coupons [column 80 lines 8-12]. Examiner interprets coupons and other incentives to

be equivalent to the Applicant's **reward points.**

5.   Regarding **claim 2, Deaton** teaches redeeming reward points from the merchant reward

point account by the steps of

    •   the user executing a purchase transaction with the merchant;

- the user utilizing reward points from the merchant reward point account for the

  purchase transaction;

- the merchant instructing the central reward server to decrement the merchant reward

  point account associated with the user by the amount of points used in the

  transaction.

Deaton discloses a system that detects and stores the amount of redemption of

coupons by a customer [column 75 lines 35-40]. **Deaton** further discloses ECR controller

crediting customer's purchase amount for value of coupon, and updating database to reflect

redemption [column 94 lines 10-40].

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claim 3, 4, and 11-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Deaton et al (US Patent No. 6334108) in view of **Klayh** (US Pub No. 2003/0050831).

8.   Regarding **claim 3, Deaton** teaches all the limitations of claim 1, the claim upon which

this claim depends. Deaton also teaches:

- establishing a reward point exchange account

- selecting reward points from each of a plurality of merchant reward point accounts for

  exchange into the reward point exchange account; and

- aggregating the selected reward points into the reward point exchange account

Deaton discloses his system being used with **multiple store businesses** and an Event Manager Task that implements system's activities and transfers customer data among the stores [column 6 lines 35 – 61]. Examiner interprets **multiple store businesses** as having Applicant's plurality of merchant reward point accounts.

Examiner notes that utilizing reward points from the merchant reward point account (claim 2) necessarily includes **establishing a reward point exchange account** and **aggregating the selected reward points**. Examiner knows of no other way to utilize reward points without establishing a reward point exchange account. Therefore, Examiner assets that Deaton inherently teaches establishing a reward point exchange account.

Deaton does not teach establishing a reward point exchange account on the credit card network.

However, **Klayh** discloses a system for controlling a customer reward system [Abstract]. He further discloses some **credit card issuers** who record loyalty points for each dollar purchased on the credit card. These points are accumulated by the card issuer and can be redeemed for merchandise [paragraph 0004]. Examiner interprets **credit card issuers** as Applicant's **credit card network**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Klayh's** disclosure into his system because it promotes customer loyalty to a particular credit card issuer.

9.   Regarding **claim 4, Klayh** teaches redeeming aggregated reward points from **the reward point exchange account** by:

- the user executing a purchase transaction with the merchant;
- the user utilizing aggregated reward points from the reward point exchange account for the purchase transaction;

- the reward point exchange account being reduced by the number of aggregated reward points utilized for the purchase transaction.

Klayh discloses an embodiment of his method which controls a customer reward system by:

- establishing merchant, customer and administrator loyalty point databases,

- depositing loyalty points in a designated customer's database

- redeeming loyalty points for goods or services, and

- decrementing the database of the customer and incrementing the database of the merchant by a number of loyalty points, and

- further decrementing a number of loyalty points from the database of the merchant and incrementing the database of the administrator [paragraph 0023 - 0027].

Examiner interprets redeeming loyalty points as Applicant's redeeming aggregated reward points.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Klayh's** disclosure into his system because it promotes customer loyalty to a particular credit card issuer.

10.   Regarding **claim 11, Deaton** teaches:

a.   user executing a purchase transaction with a merchant by presenting a credit card for payment of the transaction;

b.   the merchant requesting an acquiring bank to obtain approval of said purchase transaction from an issuing bank;

as described in the rejection of claim 1.

Deaton does not teach:

c.   and the merchant instructing **the acquiring bank** to add reward points to a merchant reward point account associated with the merchant and the user.

However **Klayh** discloses that electronic transaction processing and awarding of loyalty points by bank card issuers, airlines, etc. have come into widespread use [paragraph 0002]. Examiner interprets bank card issuers to be "banks" equivalent to the Applicant's acquiring bank. Examiner interprets loyalty points to be equivalent to the Applicant's reward points.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Klayh's** disclosure of "banks" awarding loyalty points into his system/method because it promotes customer loyalty to a both particular bank card (i.e. credit card issuer) and merchant.

11.   **Claim 12** is substantially similar to claim 2 except that claim 12 refers to the **acquiring bank** as opposed to the **central reward server** as discussed in the rejection of claim 11. Therefore, claim 12 is rejected for the same reason as claim 11.

12.   Regarding **claim 13, Deaton** teaches all the limitations of claim 11, the claim upon which this claim depends. Deaton also teaches:

- establishing a reward point exchange account;
- selecting reward points from each of a plurality of merchant reward point accounts for exchange into the reward point exchange account; and
- aggregating the selected reward points into the reward point exchange account

Deaton does not teach establishing a reward point exchange and selecting reward points at a **central server computer**.

However, **Klayh** discloses that **electronic transaction processing** and awarding of loyalty points by bank card issuers, airlines, etc. have come into widespread use (as discussed

in the rejection of claim 11) [paragraph 0002]. Examiner interprets **electronic transaction processing** as Applicant's **central server computer**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Klayh's** disclosure into his system because **electronic transaction processing** automates the process of tracking multiple transactions from multiple customers among multiple merchants. Automating such processes facilitates their management.

13.   **Claim 14 is** substantially similar to claim 4. Therefore, this claim is rejected for the same reason as claim 4.

14.   Claim 5–7 and 15–17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Deaton** et al (US Patent No. 6334108) in view of **Klayh** (US Pub No. 2003/0050831) as applied to claim 3 and 13, in further view of **Harris** et al (US Patent No. 6,014,635).

15.   Regarding **claim 5, Deaton** and **Klayh** teach all the limitations of claim, the claim upon which this claim depends. **Deaton** and **Klayh** do not teach:

- **allowing aggregation of points from each of the merchants in the cluster** into the reward point exchange account;

- establishing a cluster of merchants, each of which have merchant reward point accounts established with an acquiring bank;

- disallowing aggregation of points from a merchant not a member of the cluster.

Harris discloses a system and method for providing a discount for credit-based transactions [Abstract]. Harris further discloses using participating vendors (merchants) who agree to offer their goods or services to the participants of the discount credit system at a

reduced rate [column 3 lines 58-65]. Examiner notes that participating vendors represent Applicant's cluster of merchants.

Examiner notes although Harris does not specifically teach disallowing aggregation of points from an "outside" merchant, allowing specific participating vendors implies disallowing others. Examiner knows of no other way of interpreting allowing specific participating vendors. Therefore, Examiner asserts that Harris inherently teaches disallowing aggregation of points from an "outside" merchant.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Harris**'s disclosure into his system because it promotes customer loyalty to a particular group of merchants.

16.   Regarding **claim 6, Harris** teaches:

- allowing for **redemption of aggregated reward points only with merchants that are members of the cluster**;

Harris discloses an example where card issuers have developed affinity programs wherein the card holder receives a benefit when using the card for purchases. The card holder may receive discounts off merchandise, rebates, frequent flyer mileage points, or reward point which may be redeemed for cash or gifts [column 1 lines 47-58].

Harris further discloses that a participant can obtains goods or services from an authorized merchant, using his described method, at a percentage discount off the list price [column 3 line 66 – column 4 line 3]. Examiner interprets receiving a percentage discount as Applicant's **redemption of aggregated reward points.** Examiner interprets a participant as a merchant who is a **members of the cluster** as described in the rejection of claim 5.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Deaton** invention to include **Harris**'s disclosure into his system because it

promotes customer loyalty to a particular group of merchants as discussed in the rejection of

claim 5.

17.   Regarding **claim 7, Harris** teaches:

- reward point exchange account is administered by the **credit card network**

   operator;

Harris discloses an example where card issuers have developed **affinity programs**

wherein the card holder receives a benefit when using the card for purchases (discussed in the

rejection of claim 6, above) [column 1 lines 52-55].   Examiner interprets **affinity programs** as

programs containing accounts representing Applicant's reward point exchange accounts.

Examiner interprets **card issuers** equivalent to Applicant's **credit card network operator.**

Therefore, this claim is rejected on the same grounds as claim 6.

18.   **Claims 15-17** are substantially similar to claims 5-7, respectively. Therefore, these

claims are rejected for the same reasons as claim 5-7.

19.   Claim 8, 9, 18 and 19 are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Deaton et al (US Patent No. 6334108) in view of **Klayh** (US Pub No. 2003/0050831) as applied

to claims 3 and 13, in further view of **Official Notice.**

20.   Regarding **claim 8 and 9, Deaton** and **Klayh** do not explicitly disclose:

- reward point exchange account being administered by an **issuing bank** (claim 8) or

   an **acquiring bank (claim 9).**

Examiner takes **Official Notice** that banks which have issued credit cards (i.e. **issuing**

banks), or banks which collect payments on credit cards (i.e. **acquiring banks** as defined in

claim 1) are typically one in the same. Examiner notes Boeing Employees Credit Union which

has a **Visa Credit Card** program which offers frequent flyer miles for using the credit card for

any purchases made with it. This is old and well known in the art.

Examiner notes that a credit union is equivalent to the Applicant's issuing bank or

acquiring bank.

Therefore, this claim is rejected on the same grounds as claim 6.

21.   **Claims 18 and 19** are substantially similar to claims 8 and 9, respectively. Therefore,

these claims are rejected for the same reasons as claim 8 and 9.

22.   . Claim 10 and 20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Deaton et al (US Patent No. 6334108) in view of **Klayh** (US Pub No. 2003/0050831) as applied

to claims 3 and 13, in further view of **Blagg** et al (US Patent No. 7,076,465).

23.   Regarding **claim 10 and 20, Deaton** and **Klayh** do not explicitly disclose:

- reward points from an independent reward point system being aggregated into the
  central exchange reward point account.

Blagg discloses methods of processing groups of accounts corresponding to different

products [Abstract]. He further discloses pooling multiple reward programs where reward points

earned by a key account are pooled into a group account [column 27 line 63 – column 28 line

14]. Examiner interprets key account and group account are Applicant's independent reward

point system and central exchange reward point account, respectively

Therefore, it would have been obvious to a person having an ordinary skill in the art at

the time of the **Deaton** invention to include **Blagg**'s disclosure into his system because

accounts corresponding to different products (e.g. VISA product vs. MASTERCARD product)

can be linked to create a group where processing can be performed at a group level.
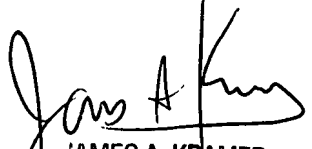
Cited Prior Art

24.   The prior art of record and not relied upon is considered pertinent to Applicant's
disclosure. Walker et al: " Method and system for awarding frequent flyer miles for casino table
games", (US Patent No. 6,379,247).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can
normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Jay Kramer can be reached on (571) 272-6783. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-8300.Information
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call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11.19.07

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